

March 29, 1971

Opinion Letter No. 188
(Answered by Klaffenbach)

Honorable Samuel J. Short, Jr.
Prosecuting Attorney
Court House
Stockton, Missouri 65785



Dear Mr. Short:

This letter is in response to your request for an opinion which asks the following questions:

"I respectfully request your opinion as to whether Section 50.600 RSMo 1969 applies to 3rd class counties and if 3rd class counties are required thereby to have at least one public hearing on their proposed budget.

"I would also respectfully request your opinion as to whether the allowance of mileage for Sheriffs and deputies provided for in Section 57.430 RSMo 1969 wherein the maximum amount allowable for mileage is limited to \$200 during any calendar month applies to the Sheriff and each deputy or is the limitation of \$200 applicable to the entire Sheriff's department, i.e. is a Sheriff's department entitled to \$200 per month for the Sheriff plus \$200 per month for each deputy as a mileage allowance or only entitled to an allowance of \$200 for the Sheriff and all deputies?"

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Section 50.600, RSMo 1969, to which you refer states:

"The budget document shall be presented to the county court in typewritten or in printed form. Copies shall be available for public distribution. The county court shall hold at least one public hearing on the proposed budget before final action is taken. At least five days' notice of the hearing shall be given and the hearing shall not be held within ten days after the budget document is made available to the public."

With respect to the application of Section 50.600 we believe that the answer is rather graphically illustrated in V.A.M.S. "County Budget Laws" wherein there is set forth and compared Section 50.525 as it was prior to the 1965 amendments with Section 50.525 as it was after the 1965 amendments effective January 1, 1967. That is, prior to the enactment of House Bill No. 205 of the 73rd General Assembly Section 50.525 stated:

"1. Sections 50.525 to 50.740 may be cited as 'The County Budget Law'.

"2. Sections 50.540 to 50.660 apply to counties of classes one and two and Sections 50.670 to 50.740 apply to counties of classes three and four."

Present Section 50.525 states:

"Sections 50.525 to 50.745 may be cited as 'The County Budget Law.'"

Also in this respect we note that old Section 50.530 defining "budget officer" pertained solely to class one and to class two counties whereas the definition in present Section 50.530, RSMo 1969, pertains to officers in all four classes of counties. Similar changes were made in Section 50.540.

In addition Section 50.620 was amended so as to clearly expressly apply to only counties of classes one and two

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whereas Section 50.740 was amended to make it clear that it expressly applies only to classes three and four.

Thus in view of the changes made in these statutes and since there are no express restrictions in Section 50.600, it appears that the legislature intended that the Section now apply to all counties and not just to counties of classes one and two.

In answer to your second question with respect to the \$200.00 mileage allowance of Section 57.430, RSMo 1969, we enclose Opinion No. 68, dated November 21, 1955, to the Honorable Don W. Owensby in which we held that the total maximum allowance, which was at that time \$75.00, may be paid separately to the Sheriff and each deputy. In our view therefore the present \$200.00 maximum is the maximum for each officer.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosure:

Op. No. 68
11-21-55, Owensby